

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LINDSAY D. COVEY and SANDRA E. COVEY,

Plaintiffs,

-against-

DIANA SIMONTON, CHARLES E. SIMONTON,
and NIKOLAOS PAHOUNTIS

Defendants.

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GARAUFIS, District Judge.

ORDER

04-CV-3273 (NGG) (CLP)

Lindsay Covey and Sandra Covey (together, “Plaintiffs”) allege that a car driven by Diana Simonton and owned by Charles Simonton (together, the “Simontons”), in which Plaintiffs were passengers, collided with a car operated by Nikolaos Pahountis (“Pahountis”), which at the moment of collision was parked on the shoulder of the Gowanus Expressway. Before the court are three motions for summary judgment: (1) the motion filed by Pahountis on March 30, 2006 (Docket No. 58), (2) the motion filed by Plaintiffs on April 1, 2006 (Docket No. 59), and (3) the motion filed by the Simontons on April 3, 2006 (Docket No. 62).

I referred all three motions to the Honorable Cheryl L. Pollak, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). (Order dated August 22, 2006.) In response, Judge Pollak recommended that I deny the first two motions in their entirety, grant the third motion with respect to Sandra Covey’s claims, and deny the third motion with respect to Lindsay Covey’s claims. (Report and Recommendation dated March 16, 2007 at 29.)

No party has filed an objection to Judge Pollak's Report and Recommendation. The ten-day period for doing so has expired. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b). This court therefore "need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Advisory Committee Notes to Fed. R. Civ. P. 72(b) (1983 Addition); see also CSI Inv. Partners II, L.P. v. Cendant Corp., 180 F. Supp. 2d 444, 447 (S.D.N.Y. 2001).

I have reviewed Judge Pollak's thorough and well-reasoned Report and Recommendation. I find, on the face of the record, that the Report and Recommendation contains no clear errors. I therefore order as follows:

- (1) The Report and Recommendation of Judge Pollak dated March 16, 2007 is approved, adopted, and ratified by this court;
- (2) Pahountis's motion for summary judgment is DENIED;
- (3) Plaintiffs' motion for summary judgment is DENIED;
- (4) The Simontons' motion for summary judgment is GRANTED with respect to Sandra Covey's claims, which are dismissed with prejudice, and DENIED with respect to Lindsay Covey's claims; and
- (5) The parties shall inform the court within ten days of the date of this Order whether they consent to a trial before Judge Pollak pursuant to 28 U.S.C. § 636(c).

SO ORDERED.

Dated: April 4, 2007
Brooklyn, N.Y.

/s/ Nicholas G. Garaufis
NICHOLAS G. GARAUFIS
United States District Judge